UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

THOMAS MACLEOD,
Petitioner,

V.

C.A. NO. 04-11629-PBS

DAVID NOLAN,
Respondent.

)

PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER

Now comes the above petitioner ("MacLeod"), and moves this Honorable Court for a temporary restraining Order, prohibiting the above respondent and his agents or employees from transferring MacLeod in violation of the Fed.R.App.P. 23 (a). For the following reasons:

In anticapation of a classification review, MacLeod wrote to the respondents agents or employees, notifying them of Rule 23 (a), attached. MacLeod had a classification hearing, on 10/14/05, in absentia. The board elected to transfer MacLeod to the DOC facility SBCC, Shirley Maximum, (a level 6 facility the same as Cedar Junction). MacLeod appealed, attached. MacLeod also wrote to the respondents counsel notifying Susan Reardon, A.A.G. of this problem.

If MacLeod is transferred to SBCC, he will suffer a loss of his legal materials and access to the law library. And that will interfere with his ability to litigate this action.

WHEREFORE, this Honorable Court should Order the respondent to comply with Rule 23 (a) and either seek an application from this court showing a need to transfer MacLeod from one Level 6 to another Level 6 and await a decision of this court. In the interest of justice this TRO should be issued, or an alternative order for the respondent to comply with Rule 23 (a).

By the Petitioner,

October 25th, 2005

Thomas MacLeod, W-56485 MCI-Cedar Junction P.O. Box 100 South Walpole, MA. 02071-0100

Certificate Of Service

I hereby certify that I sent a copy of this motion to Susan Reardon, Attorney Generals Office, One Ashburton Place, Boston, MA. Postage pre-paid.

Thomas MacLeod